

intestate; and the person making the election to take the estate at the valuation of the commissioners shall hold the estate disencumbered by any tenancy of such surviving husband.

This section referred to in discussing rules laid down by various statutes for valuation of life estates and estates in remainder. Distinction drawn in this regard between dower and other life estates. *Williams' Case*, 3 Bl. 265.

An. Code, sec. 60. 1904, sec. 60. 1888, sec. 60. 1820, ch. 191, sec. 37. 1898, ch. 457.

**35.** If any person shall become entitled as surviving husband to an undivided part of the real estate of an intestate, after the return of the commissioners, and before the sale or division thereof, the court shall order that the commissioners shall alter or change their return; and the commissioners shall, upon the service of the said order, proceed to alter their return in such manner as that the surviving husband shall come in for his proportionable share of the intestate's estate, with those who by law may be entitled to take as heirs of the intestate.

This section referred to in discussing rules laid down by various statutes, for valuation of life estates and estates in remainder. Distinction drawn in this regard between dower and other life estates. *Williams' Case*, 3 Bl. 265.

An. Code, sec. 61. 1904, sec. 61. 1888, sec. 61. 1820, ch. 191, secs. 38, 39. 1829, ch. 32. 1898, ch. 457.

**36.** Where any person is entitled by deed or devise to a life estate in an undivided part of the real estate of an intestate, the same proceedings shall be had as are directed by this article with regard to surviving husbands; and where any person is entitled by deed or devise to the remainder after such life estate, the same proceedings shall be had as are directed by this article where a person is entitled to an undivided part of an intestate's estate subject to a tenancy by a surviving husband.

This section referred to in discussing rules laid down by various statutes for valuation of life estates and estates in remainder. Distinction drawn in this regard between dower and other life estates. *Williams' Case*, 3 Bl. 265.

An. Code, sec. 62. 1904, sec. 62. 1888, sec. 62. 1820, ch. 191, sec. 27.

**37.** The commissioners, or a majority of them, shall ascertain and lay off the widow's dower in and to the lands and tenements of the intestate, by virtue of their commission, before they shall proceed to divide or value the same; and the said commissioners shall make the ascertainment and location of such dower a part of their return to such commission; and the court shall determine thereon, and confirm or reject the same, as in other cases.

This section expressly requires dower to be laid off and assigned before partition among the heirs, unless sale be had with widow's consent under sec. 38. *Phelps v. Stewart*, 17 Md. 240. And see *Childs v. Smith*, 1 Md. Ch. 487.

Where lands are divided in kind, widow cannot be assigned a portion of land equal to her dower in the whole. *Wilhelm v. Wilhelm*, 4 Md. Ch. 334.

Cited but not construed in *Stein v. Stein*, 80 Md. 309; *Stallings v. Stallings*, 22 Md. 47.

See art. 45, sec. 6; also art. 16, sec. 43, *et seq.*

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OF THE  
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